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10/763,007	01/21/2004	Todd A. Walker	UV-258	6197
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ROPES & GRAY LLP			EXAMINER	
PATENT DOCKETING 39/361			CHIN, RICKY	
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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 10/763,007	Applicant(s) WALKER, TODD A.
	Examiner RICKY CHIN	Art Unit 4157

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
 - If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
 - Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED. (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(o).

Status

- 1) Responsive to communication(s) filed on 1-21-04.
- 2a) This action is FINAL. 2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) Claim(s) 1-56 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) Claim(s) _____ is/are allowed.
- 6) Claim(s) 1-56 is/are rejected.
- 7) Claim(s) _____ is/are objected to.
- 8) Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on 21 January 2004 is/are: a) accepted or b) objected to by the Examiner.
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) All b) Some * c) None of:
 1. Certified copies of the priority documents have been received.
 2. Certified copies of the priority documents have been received in Application No. _____.
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date: _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/DP/0656)
Paper No(s)/Mail Date: _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION***Claim Rejections - 35 USC § 103***

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

2. Claims (1-2, 6,13) are rejected under 35 U.S.C. 103(a) as being unpatentable over Srinivasan et al., US 2002/0124099 in view of Dunn et al., US 6,571,390.

Regarding claim 1, Srinivasan discloses a method for providing a user with playback options while viewing a broadcast television program on user equipment (See [0003], which discloses time shifting allowing a user to pause a live broadcast), the method comprising: providing the broadcast television program to the user equipment (See [0028]); receiving a request from the user to perform a playback option while viewing the television program that is currently being broadcast (See [0003], which discloses that time shifting allows a user to pause a live broadcast as well as seek forward and backward through a stream); and providing a streaming version of the broadcast television program to the user equipment instead of the broadcast television program in response to the received request (See [0008]-[0011], which discloses creating overlapped

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recordings of a data stream allowing a user to record an entire program as well as one or more portions of the program and access them independently of one another).

However, Srinivasan doesn't explicitly teach of the method of wherein in the streaming version of the broadcast television program is generated before the broadcast of the television program. Dunn discloses a VOD system which provides a streaming version that is generated before the broadcast of the television program (See col. 4 lines 53-67, which discloses that headend 22 provides video content programs which a viewer can select any one of the video data streams for viewing at any time).

Therefore it would have been obvious of one of ordinary skill in the art to have combined the teachings of Srinivasan with that of Dunn for the mere benefit of providing increased flexibility of playback options and the option of being able to watch a program at ones own leisure.

Regarding claim 2, Dunn further teaches of charging the user a fee when the user requests to perform the playback option (See col. 11 lines 58-62, which discloses a rental period).

Regarding claim 6, Dunn further teaches of wherein the generated streaming version of the broadcast television program is substantially the same as the broadcast television program (See col. 3 lines 22-40, which discloses that the viewer can order a video for a rental period. Furthermore, if the user were to

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order the video of the same broadcast television program then the generated streaming version would be substantially the same as the broadcast program).

Regarding claim 13, the claim has been analyzed and rejected for the same reasons set forth in claim 6.

3. Claims (3-5, 7-12, 14) are rejected under 35 U.S.C. 103(a) as being unpatentable over Srinivasan et al., US 2002/0124099 in view of Dunn et al., US 6,571,390 as applied to claim 1 above and in further view of Ellis et al., US 2002/0174430.

Regarding claim 3, Srinivasan and Dunn when combined teach all of the claim limitations of claim 1. However, they do not explicitly teach of receiving a request from the user to return to the broadcast of the broadcast television program. Ellis discloses this feature (See [0292], which states that live television programming may be buffered when a recording is canceled or completed). Therefore it would have been obvious of one of ordinary skill in the art at the time of the invention to have combined the teachings of Srinivasan and Dunn with that of Ellis for the mere benefit of increased flexibility of playback and allowing a user to return back to live television.

Regarding claim 4, the claim has been analyzed and rejected for the same reasons set forth in the rejection of claim 3.

Regarding claim 5, Srinivasan, Dunn and Ellis in combination further teaches of automatically returning to the broadcast of the broadcast television program after a predetermined amount of time (Ellis [0289], which discloses scheduled recording implying a predetermined amount of time and would be able to automatically return to the broadcast as recited in claims 3 and 4).

Regarding claim 7, Srinivasan, Dunn and Ellis in combination further teaches of wherein the playback option is selected from the group consisting of: pause, resume, play, fast forward, rewind, slow forward, slow reverse, jump to another time point, scan, frame-by-frame advance, frame backward, skip, and restart program (Ellis, [0018], which discloses functions of fast-forward, rewind, stop, play, record, and other suitable functions).

Regarding claim 8, Srinivasan, Dunn and Ellis in combination further teaches of wherein providing the streaming version comprises determining the time point in the broadcast television program at which the user requests to perform the playback option (Ellis, [0018], which discloses that the application may display paused video of the television content and display a timer showing how far back the paused video is behind the live content. This would imply that the time point in the broadcast at which the user requests playback is retrieved).

Regarding claim 9, Srinivasan, Dunn and Ellis in combination further teaches of wherein the providing the streaming version further comprises

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providing the streaming version of the television program at substantially the same time point (Srinivasan, [0038], which discloses that the system can seamlessly switch between metafiles in response to stored data and user commands).

Regarding claim 10, the claim has been analyzed and rejected for the same reasons set forth in the rejection of claim 8.

Regarding claim 11, Srinivasan, Dunn and Ellis in combination further teaches of wherein the broadcast television program is associated with an index of time points, and wherein the determining the time point comprises using the associated index to determine the time point at which the user requests to perform the playback option (Srinivasan, [0035]-[0039], which discloses metafiles which include data portions such as minutes of a broadcast).

Regarding claim 12, Srinivasan, Dunn and Ellis in combination further teaches of wherein the associated index includes a plurality of embedded markers in the broadcast television program, and wherein the using the associated index comprises determining the time point corresponding to the embedded marker at which the user requests to perform the playback option (Srinivasan, [0039], which discloses that each metafile includes pointers to the appropriate media files and particular time within each media file that represent the relevant portion of the television broadcast).

Regarding claim 14, Srinivasan, Dunn and Ellis in combination further teaches of wherein the providing the streaming version includes detecting at least one embedded marker (Srinivasan, [0035]-[0041]).

Regarding claims 15-16,20,27,29-30,34,41,43-44,48, and 55 the claims have substantially the same subject matter as claims 1,2,6 and 13 and thus have been rejected for the same reasons set forth in the above rejected claims.

Regarding claims 17-19,21-26,28,31-33,35-40,42,45-47,49-54, and 56 the claims have substantially the same subject matter as claims 3-5,7-12, and 14 and thus have been rejected for the same reasons set forth in the above rejected claims.

Contact

4. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Ricky Chin whose telephone number is 571-270-3753. The examiner can normally be reached on M-F 8:30-6:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Vu Le can be reached on 571-272-7332. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information

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for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

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